

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

<i>In re</i>	:	
	:	Chapter 11
WASHINGTON MUTUAL, INC., <u>et al.</u> , ¹	:	
	:	Case No. 08-12229 (MFW)
Debtors.	:	
	:	Jointly Administered
<hr/>		
	:	
JPMORGAN CHASE BANK, N.A.,	:	
	:	
Plaintiff,	:	Adversary Proceeding No. 09-50551
	:	(MFW)
v.	:	
	:	
WASHINGTON MUTUAL, INC. and	:	
WMI INVESTMENT CORP.,	:	
	:	
Defendants,	:	
	:	
- and -	:	
	:	
FEDERAL DEPOSIT INSURANCE	:	
CORPORATION,	:	
	:	
Additional Defendant.	:	
	:	

**MOTION OF THE FEDERAL DEPOSIT INSURANCE CORPORATION,
AS RECEIVER, IN THE ALTERNATIVE, FOR LEAVE TO APPEAL**

(Caption continued on next page)

¹ The Debtors in these chapter 11 cases along with the last four digits of each Debtor's federal tax identification numbers are: (a) Washington Mutual, Inc. (3725); and (b) WMI Investment Corp. (5395). The Debtors' principal offices are located at 1301 Second Avenue, Seattle, Washington 98101.

WASHINGTON MUTUAL, INC. AND
WMI INVESTMENT CORP.,

Plaintiffs,

V.

JPMORGAN CHASE BANK,
NATIONAL ASSOCIATION,

Defendant.

Adv. Pro. No. 09-50934 (MFW)

**MOTION OF THE FEDERAL DEPOSIT INSURANCE CORPORATION,
AS RECEIVER, IN THE ALTERNATIVE, FOR LEAVE TO APPEAL**

Pursuant to 28 U.S.C. § 158(a)(3) and Bankruptcy Rule 8003, defendant and intervenor-defendant the Federal Deposit Insurance Corporation, in its capacity as receiver for Washington Mutual Bank (the “FDIC-Receiver”), moves for leave to appeal two Orders of the United States Bankruptcy Court for the District of Delaware (Walrath J.), entered in these adversary proceedings on July 6, 2009 (the “Orders”), which denied the FDIC-Receiver’s motions to stay the two adversary proceedings until judgment has been entered in a previously filed action that is pending in the United States District Court for the District of Columbia. This motion is made in the alternative and solely in the event that it is determined that the Orders are not appealable as of right pursuant to 28 U.S.C. § 158(a)(1). In accordance with Bankruptcy Rule 8001(b), a notice of appeal from the Orders is being served and filed concurrently with this motion in the two adversary proceedings.

The grounds for this motion are set forth in the accompanying *Brief in Support of the Motion of the Federal Deposit Insurance Corporation, as Receiver, in the Alternative, for Leave to Appeal*. In addition, the following exhibits to this Motion are submitted in support thereof:

1. Attached hereto as Exhibit A is a true and correct copy of the Order Denying Motion of Federal Deposit Insurance Corporation, as Receiver, to Stay Adversary Proceeding, as entered by the Bankruptcy Court on July 6, 2009 in *JPMorgan Chase Bank, N.A. v. Washington Mutual, Inc.*, Adv. Proc. No. 09-50551 (MFW) [D.I. 68].

2. Attached hereto as Exhibit B is a true and correct copy of the Order Denying (A) Motion of JPMorgan Chase Bank, N.A. to Stay and (B) Motion of Intervenor-Defendant Federal Deposit Insurance Corporation, as Receiver, to Stay or Dismiss Adversary Proceeding, as entered by the Bankruptcy Court on July 6, 2009 in *Washington Mutual, Inc. v. JPMorgan Chase Bank, N.A.*, Adv. Proc. No. 09-50934 (MFW) [D.I. 62].

3. Attached hereto as Exhibit C is an excerpt from the Transcript of Hearing Before the Honorable Mary F. Walrath, United States Bankruptcy Court Judge, held on June 24, 2009.

4. Attached hereto as Exhibit D is a true and correct copy of the Motion of Federal Deposit Insurance Corporation, as Receiver, to Stay Adversary Proceeding, dated June 1, 2009, together with the exhibits thereto, as filed in *JPMorgan Chase Bank, N.A. v. Washington Mutual, Inc.*, Adv. Proc. No. 09-50551 (MFW) on that date [D.I. 25].

5. Attached hereto as Exhibit E is a true and correct copy of the Motion of Intervenor-Defendant Federal Deposit Insurance Corporation, as Receiver, to Stay or Dismiss the Adversary Complaint, without is exhibits, as filed in *Washington Mutual, Inc. v. JPMorgan Chase Bank, N.A.*, Adv. Proc. No. 09-50934 (MFW) [D.I. 29, Exh. A] by Order of the Bankruptcy Court dated July 6, 2009 granting the FDIC-Receiver's motion to intervene [D.I. 63].

6. Attached hereto as Exhibit F is a true and correct copy of the Debtors' Answer and Counterclaims in Response to the Complaint of JPMorgan Chase Bank, N.A., dated May 29,

2009, as filed in *JPMorgan Chase Bank, N.A. v. Washington Mutual, Inc.*, Adv. Proc. No. 09-50551 (MFW) on that date [D.I. 23].

WHEREFORE, the FDIC-Receiver respectfully requests, if it is determined that the Orders are not appealable as of right pursuant to 28 U.S.C. § 158(a)(1), that this Court grant the FDIC-Receiver leave to appeal the Orders pursuant to 28 U.S.C. § 158(a)(3).

Date: Wilmington, Delaware
July 10, 2009

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